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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1931.

No. 423

BRADFORD ELECTRIC LIGHT COMPANY, INC.,
APPELLANT,

vs.

JENNIE M. CLAPPER, ADMINISTRATRIX.

STATEMENT AS TO JURISDICTION.

WM. E. LEAHY,
GEORGE T. HUGHES,
STANLEY M. BURNS,
Counsel for Petitioner.

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STATEMENT OF BASIS ON WHICH APPELLANT CONTENDS THE SUPREME COURT OF THE UNITED STATES HAS JURISDICTION TO REVIEW ON APPEAL THE JUDGMENT APPEALED FROM, AS REQUIRED BY SUPREME COURT RULE 12.

Pursuant to Supreme Court Rule 12, par. 1, Bradford Electric Light Company, Inc., the above appellant, files this, its statement showing the basis on which said appellant contends that the Supreme Court has appellate jurisdiction to review on appeal the judgment appealed from herein, as follows:

I. The statute believed to sustain appellate jurisdiction is section 240 (b) Judicial Code (28 U. S. C. A. 347), which provides that

> (*b*) Any case in a circuit court of appeals where is drawn in question the validity of a statute of any State, on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, and the decision is against its validity, may, at the election of the party relying on such State statute, be taken to the Supreme Court for review on writ of error or appeal; but in that event a review on certiorari shall not be allowed at the instance of such party, and the review on such writ of error or appeal shall be restricted to an examination and decision of the Federal questions presented in the case.

II. The judgment appealed from was entered on the twenty-ninth day of June, 1931, as appears from page 385 of the printed record herein.

III. The application for an appeal was presented on the twelfth day of September, 1931, as appears from page 386 of the printed record herein, and was allowed September 12, 1921. (R. 389.)

IV. The appeal herein is from a judgment of the Circuit Court of the United States for the First Circuit in a civil case at law to recover damages for personal injuries resulting in the death of Respondent's intestate, Leon J. Clapper, said injuries being sustained by the said Leon J. Clapper while in Petitioner's employ, to review the opinions of said United States

Circuit Court for the First Circuit, handed down under dates of January 8, 1931, and June 29, 1931, respectively as appears from pages 361 and 374 of the printed record herein.

Appellee's intestate was in the employ of appellant and fatally injured July 30, 1926, at Haverhill, New Hampshire, prior to which time appellant, a public utility engaged in interstate commerce had accepted the provisions of the Workmen's Compensation Act of the State of Vermont (R. 203), wherein appellant was incorporated. The provisions of said Act were extra-territorial in operation and applied to injuries received outside the State of Vermont. (Chapter 241 General Laws of Vermont relating to Labor, Sections 5765, 5770, 5774, 5762.)

The question of the extra-territorial effect of the Vermont laws was specifically raised and ruled on. (R. 25, 26.)

The Circuit Court of Appeals, contrary to the provisions of Article IV, Sec. 1, of the Constitution of the United States, failed to give full faith and credit to the General Laws of Vermont relating to Labor, Chapter 241, Sections 5763, 5765, 5770, 5774, and 5762, in the State of Vermont, which laws by agreement of the parties become part of the contract of employment.

Pollard v. *Bailey,* 20 Wall., 520, 527.
Galveston Ry. v. *Wallace,* 223 U. S. 481, 490.
Stewart v. *B. & O. R. Co.,* 168 U. S. 445.
National Bank v. *Francklyn,* 120 U. S. 747, 753.

The validity of Sections 5763, 5765, 5770, 5774, and 5762 of the laws of Vermont relating to Labor was

specifically drawn in question by appellant as shown by the opinions of the court below (R. 361-383) and by the petition for the appeal (R. 386) and the assignment of errors. (R. 387-388.)

V. The cases believed to sustain the jurisdiction are as follows:

Dennick v. *Central R. R. Co.*, 103 U. S. 11;
Northern Pacific Railroad v. *Babcock*, 154 U. S. 190;
Stewart v. *Baltimore & Ohio Rd. Co.*, 168 U. S. 445;
Hancock Nat'l Bank v. *Farnum*, 176 U. S. 640;
Slater v. *Mexican National Rd. Co.*, 194 U. S. 120;
Davis v. *Mills*, 194 U. S. 451;
St. Louis etc. Co. v. *Taylor*, 210 U. S. 281;
American Express Co. v. *Mullins*, 212 U. S. 311
Atchison etc. Co. v. *Sowers*, 213 U. S. 55;
Liberato v. *Royer*, 270 U. S. 535;
Montana Mining Co. v. *St. Louis etc. Co.*, 204 U. S. 204;
Security Trust Co. v. *Dent*, 187 U. S. 237;
O'Callaghan v. *O'Brien*, 199 U. S. 89;
James-Dickinson etc. Co. v. *Harry*, 273 U. S. 119;
See also: *Ora Scott* v. *White Eagle Oil and Refining Company*, decided February 3, 1930, by Federal District Court of Kansas;
Barnhart v. *Am. Concrete Steel Co.*, 277 N. Y. 531;
Mulhall v. *Nashua Mfg. Co.*, 80 N. H. 194.

See also statement of Circuit Judge Wilson in dissenting opinion, (R. 379), as follows:

> The case at bar "is one of new impressions, and owing to the peculiar nature of the New Hampshire Employers' Liability and Compensation Act is unique in the issues it presents, *and of importance to employers, especially in adjoining states.*"

Dated October 26, 1931.

Respectfully submitted,

WM. E. LEAHY,
GEORGE T. HUGHES,
STANLEY M. BURNS,
Counsel for Petitioner.